



General Assembly

January Session, 2019

Amendment

LCO No. 8472



Offered by:

SEN. ANWAR, 3rd Dist.
SEN. CHAMPAGNE, 35th Dist.
REP. DELNICKI, 14th Dist.
REP. CURREY, 11th Dist.

SEN. KELLY, 21st Dist.
SEN. LESSER, 9th Dist.
SEN. BIZZARRO, 6th Dist.

To: Subst. Senate Bill No. 907

File No. 372

Cal. No. 195

"AN ACT CONCERNING THE RESIDENTIAL DISCLOSURE REPORT AND CRUMBLING CONCRETE FOUNDATIONS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 20-327b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2019*):

5 (a) Except as otherwise provided in this section, each person who
6 offers residential property in the state for sale, exchange or for lease
7 with option to buy, shall provide a written residential condition report
8 to the prospective purchaser at any time prior to the prospective
9 purchaser's execution of any binder, contract to purchase, option or
10 lease containing a purchase option. A photocopy, duplicate original,
11 facsimile transmission or other exact reproduction or duplicate of the
12 written residential condition report containing the prospective

13 purchaser's written receipt shall be attached to any written offer,
14 binder or contract to purchase. A photocopy, duplicate original,
15 facsimile transmission or other exact reproduction or duplicate of the
16 written residential condition report containing the signatures of both
17 seller and purchaser shall be attached to any agreement to purchase
18 the property.

19 (b) The following shall be exempt from the provisions of this
20 section: (1) Any transfer from one or more co-owners solely to one or
21 more of the co-owners; (2) transfers made to the spouse, mother,
22 father, brother, sister, child, grandparent or grandchild of the
23 transferor where no consideration is paid; (3) [transfers pursuant to an
24 order of the court; (4)] transfers of newly-constructed residential real
25 property for which an implied warranty is provided under chapter
26 827; [(5)] (4) transfers made by executors, administrators, trustees or
27 conservators; [(6)] (5) transfers by the federal government, any political
28 subdivision thereof or any corporation, institution or quasi-
29 governmental agency chartered by the federal government; [(7)
30 transfers by deed in lieu of foreclosure; (8)] (6) transfers by [the state of
31 Connecticut or] this state; (7) except as provided in subsection (g) of
32 this section, transfers by any political subdivision [thereof; (9)] of this
33 state; and (8) transfers of property which was the subject of a contract
34 or option entered into prior to January 1, 1996. [; and (10) any transfer
35 of property acquired by a judgment of strict foreclosure or by
36 foreclosure by sale or by a deed in lieu of foreclosure.]

37 (c) The provisions of this section shall apply only to transfers by
38 sale, exchange or lease with option to buy, of residential real property
39 consisting of not less than one nor more than four dwelling units
40 which shall include cooperatives and condominiums, and shall apply
41 to all transfers, with or without the assistance of a licensed real estate
42 broker or salesperson, as defined in section 20-311.

43 (d) The Commissioner of Consumer Protection shall prescribe the
44 written residential disclosure report required by this section and
45 sections 20-327c to 20-327e, inclusive, as amended by this act. The

46 written residential disclosure report shall be based upon a template
47 that the commissioner shall prescribe. Such template shall: Fit on pages
48 being not more than eight and one-half inches in height and eleven
49 inches in width, with type size no smaller than nine-point type, other
50 than checkboxes or section headers, which may be in a smaller size;
51 include the address of the subject property on each page; include page
52 numbers on each page; include section headings in bold type and
53 include space for the buyer and the seller's initials on each page, except
54 the signature page. The report shall contain the following, in the order
55 indicated:

56 (1) A section entitled "Instructions to Sellers"

57 You MUST answer ALL questions to the best of your knowledge.

58 Identify/Disclose any problems regarding the subject property.

59 YOUR REAL ESTATE LICENSEE CANNOT COMPLETE THIS
60 FORM ON YOUR BEHALF.

61 UNK means Unknown, N/A means Not Applicable.

62 If you need additional space to complete any answer or explanation,
63 attach additional page(s) to this form. Include subject property
64 address, seller's name and the date.

65 (2) Pursuant to the Uniform Property Condition Disclosure Act, the
66 seller is obligated to answer the following questions and to disclose
67 herein any knowledge of any problem regarding the following:

68 (A) A subsection entitled "Subject Property"

69 (i) Name of seller(s)

70 (ii) Street address, municipality, zip code

71 (B) A subsection entitled "General Information"

72 (i) Indicate the YEAR the structure was built:

73 (ii) Indicate HOW LONG you have occupied the property: If not
74 applicable, indicate with N/A.

75 (iii) Does anyone else claim to own any part of your property,
76 including, but not limited to, any encroachment(s)? If YES, explain:

77 (iv) Does anyone other than you have or claim to have any right to
78 use any part of your property, including, but not limited to, any
79 easement or right-of-way? If YES, explain:

80 (v) Is the property in a flood hazard area or an inland wetlands
81 area? If YES, explain:

82 (vi) Do you have any reason to believe that the municipality in
83 which the subject property is located may impose any assessment for
84 purposes such as sewer installation, sewer improvements, water main
85 installation, water main improvements, sidewalks or other
86 improvements? If YES, explain:

87 (vii) Is the property located in a municipally designated village
88 district, municipally designated historic district or listed on the
89 National Register of Historic Places? If YES, explain:

90 (viii) Special Statement: Information concerning village districts and
91 historic districts may be obtained from the municipality's village or
92 historic district commission, if applicable.

93 (ix) Is the property located in a special tax district? If YES, please
94 explain:

95 (x) Is the property subject to any type of land use restrictions, other
96 than those contained within the property's chain of title or that are
97 necessary to comply with state laws or municipal zoning? If YES,
98 explain:

99 (xi) Is the property located in a common interest community? If
100 YES, is it subject to any community or association dues or fees? Please
101 explain:

102 (xii) Do you have any knowledge of prior or pending litigation,
103 government agency or administrative actions, orders or liens on the
104 property related to the release of any hazardous substance? If YES,
105 please explain:

106 (C) A subsection entitled "Leased Equipment"

107 Does the property include any Leased or Rented Equipment that
108 would necessitate or obligate either of the following: The assignment
109 or transfer of the lease or rental agreement(s) to the buyer or the
110 replacement or substitution of the equipment by the buyer? If YES,
111 indicate by checking ALL items that apply: PROPANE FUEL TANK;
112 WATER HEATER; SECURITY ALARM SYSTEM; FIRE ALARM
113 SYSTEM; SATELLITE DISH ANTENNA; WATER TREATMENT
114 SYSTEM; SOLAR DEVICES; MAJOR APPLIANCES; OTHER

115 (D) A subsection entitled "Mechanical/Utility Systems"

116 (i) Heating system problems? If YES, explain. List Fuel Types.

117 (ii) Hot water heater Type: Age: Hot water problems? If YES,
118 explain:

119 (iii) Is there an underground storage tank? If YES, give AGE of tank
120 and LOCATION.

121 (iv) Are you aware of any problems with the underground storage
122 tank? If YES, explain:

123 (v) During the time you have owned the property, has there ever
124 been an underground storage tank located on the property? If YES, has
125 it been removed? If YES, what was the date of removal and what was
126 the name and address of the person or business who removed such
127 underground storage tank? Provide any and all written documentation
128 of such removal within your control or possession by attaching a copy
129 of such documentation to this form.

130 (vi) Air conditioning problems? If YES, explain: Air conditioning

- 131 Type: Central; Window; Other
- 132 (vii) Plumbing system problems? If YES, explain:
- 133 (viii) Electrical System problems? If YES, explain:
- 134 (ix) Electronic security system problems? If YES, explain:
- 135 (x) Are there carbon monoxide or smoke detectors located in a
136 dwelling on the property? If YES, state the NUMBER of such detectors
137 and whether there have been problems with such detectors;
- 138 (xi) Fire sprinkler system problems? If YES, explain:
- 139 (E) A subsection entitled "Water System"
- 140 (i) Domestic Water System Type: Public; Private Well; Other
- 141 (ii) If Public Water:
- 142 (I) Is there a separate expense/fee for water usage? If YES, is the
143 expense/fee for water usage flat or metered? Give the AMOUNT and
144 explain:
- 145 (II) Are there any UNPAID water charges? If YES, state the amount
146 unpaid:
- 147 (iii) If Private Well:
- 148 Has the well water been tested for contaminants/volatile organic
149 compounds? If YES, attach a copy of the report.
- 150 (iv) If Public Water or Private Well: Are you aware of any problems
151 with the well, or with the water quality, quantity, recovery, or
152 pressure? If YES, explain:
- 153 (F) A subsection entitled "Sewage Disposal System"
- 154 (i) Sewage Disposal System Type: Public; Septic; Cesspool; Other

- 155 (ii) If Public Sewer:
- 156 (I) Is there a separate charge made for sewer use? If YES, is it Flat or
157 Metered?
- 158 (II) If it is a Flat amount, state amount and due dates:
- 159 (III) Are there any UNPAID sewer charges? If any unpaid sewer
160 charges, state the amount:
- 161 (iii) If Private:
- 162 (I) Name of service company
- 163 (II) Date last pumped: AND frequency:
- 164 (III) For any sewage system, are there problems? If YES, explain:
- 165 (G) A subsection entitled "Asbestos/Lead"
- 166 (i) Are asbestos containing insulation or building materials present?
167 If YES, location:
- 168 (ii) Is lead paint present? If YES, location:
- 169 (iii) Is lead plumbing present? If YES, location:
- 170 (H) A subsection entitled "Building/Structure/Improvements"
- 171 (i) Is the foundation made of concrete? If NO, explain:
- 172 (ii) Foundation/Slab problems or settling? If YES, explain:
- 173 (iii) Basement Water Seepage/Dampness? If YES, explain Amount,
174 Frequency and Location:
- 175 (iv) Sump pump problems? If YES, explain:
- 176 (v) Do you have any knowledge of any testing or inspection done by
177 a licensed professional related to a foundation on the property? If YES,
178 disclose the testing or inspection method, the areas or locations that

179 were tested or inspected, the results of such testing or inspection and
180 attach a copy of the report concerning such testing or inspection.

181 (vi) Do you have any knowledge of any repairs related to a
182 foundation on the property? If YES, [explain:] describe such repairs,
183 disclose the areas repaired and attach a copy of the report concerning
184 such repairs.

185 (vii) Do you have any knowledge related to the presence of
186 pyrrhotite in a foundation on the property? If YES, explain:

187 [(vii)] (viii) Roof type; Age?

188 [(viii)] (ix) Roof leaks? If YES, explain:

189 [(ix)] (x) Exterior siding problems? If YES, explain:

190 [(x)] (xi) Chimney, Fireplace, Wood or Coal Stove problems? If YES,
191 explain:

192 [(xi)] (xii) Patio/deck problems? If YES, explain:

193 [(xii)] (xiii) If constructed of Wood, is the Wood Treated or
194 Untreated?

195 [(xiii)] (xiv) Driveway problems? If YES, explain:

196 [(xiv)] (xv) Water drainage problems? If YES, explain:

197 [(xv)] (xvi) Interior Floor, Wall and/or Ceiling problems? If YES,
198 explain:

199 [(xvi)] (xvii) Fire and/or Smoke damage? If YES, explain:

200 [(xvii)] (xviii) Termite, Insect, Rodent or Pest Infestation problems?
201 If YES, explain:

202 [(xviii)] (xix) Rot or Water damage problems? If YES, explain:

203 [(xix)] (xx) Is house insulated? If YES, Type: Location:

204 [(xx)] (xxi) Has a test for Radon been performed? If YES, attach a
205 copy of the report.

206 [(xxi)] (xxii) Is there a Radon Control System in place? If YES,
207 explain:

208 [(xxii)] (xxiii) Has a Radon control system been in place in the
209 previous 12 months? If YES, explain:

210 (I) The Seller should attach additional pages to further explain any
211 item(s) above. Indicate here the number of additional pages attached:

212 (J) Questions contained in subparagraphs (A) to (I), inclusive, of this
213 subdivision shall contain checkboxes indicating "yes", "no", "not
214 applicable" or "unknown".

215 (3) The written residential disclosure report shall contain the
216 following immediately below the questions contained in
217 subparagraphs (A) to (I), inclusive, of subdivision (2) of this
218 subsection:

219 A certification by the seller in the following form:

220 SELLER'S CERTIFICATION

221 "To the extent of the seller's knowledge as a property owner, the
222 seller acknowledges that the information contained above is true and
223 accurate for those areas of the property listed. In the event a real estate
224 broker or salesperson is utilized, the seller authorizes the brokers or
225 salespersons to provide the above information to prospective buyers,
226 selling agents or buyers' agents.

T1 (Date) (Seller)
T2 (Date) (Seller)"

227 (4) The written residential disclosure report shall contain the

228 following in a separate section immediately below the seller's
229 certification:

230 IMPORTANT INFORMATION

231 (A) RESPONSIBILITIES OF REAL ESTATE BROKERS

232 This report in no way relieves a real estate broker of the broker's
233 obligation under the provisions of section 20-328-5a of the Regulations
234 of Connecticut State Agencies to disclose any material facts. Failure to
235 do so could result in punitive action taken against the broker, such as
236 fines, suspension or revocation of license.

237 (B) STATEMENTS NOT TO CONSTITUTE A WARRANTY

238 Any representations made by the seller on the written residential
239 disclosure report shall not constitute a warranty to the buyer.

240 (C) NATURE OF DISCLOSURE REPORT

241 This Residential Property Condition Disclosure Report is not a
242 substitute for inspections, tests and other methods of determining the
243 physical condition of property.

244 (D) INFORMATION ON THE RESIDENCE OF CONVICTED
245 FELONS

246 Information concerning the residence address of a person convicted
247 of a crime may be available from law enforcement agencies or the
248 Department of Public Safety.

249 (E) BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

250 Prospective buyers should consult with the municipal building
251 official in the municipality in which the property is located to confirm
252 that building permits and certificates of occupancy have been issued
253 for work on the property.

254 (F) HOME INSPECTION

255 Buyers should have the property inspected by a licensed home
256 inspector.

257 (G) CONCRETE FOUNDATION

258 Prospective buyers may have a concrete foundation inspected by a
259 licensed professional engineer who is a structural engineer for
260 deterioration of the foundation due to the presence of pyrrhotite.

261 (5) The written residential disclosure report shall contain the
262 following immediately below the statements contained in
263 subparagraphs (A) to (G), inclusive, of subdivision (4) of this
264 subsection:

265 A certification by the buyer in the following form:

266 BUYER'S CERTIFICATION

267 "The buyer is urged to carefully inspect the property and, if desired,
268 to have the property inspected by an expert. The buyer understands
269 that there are areas of the property for which the seller has no
270 knowledge and that this disclosure statement does not encompass
271 those areas. The buyer also acknowledges that the buyer has read and
272 received a signed copy of this statement from the seller or seller's
273 agent.

T3 (Date) (Seller)

T4 (Date) (Seller)"

274 (e) On or after January 1, 1996, the Commissioner of Consumer
275 Protection shall make available the residential disclosure report
276 prescribed in accordance with the provisions of this section and
277 sections 20-327c to 20-327e, inclusive, to the Division of Real Estate, all
278 municipal town clerks, the Connecticut Association of Realtors, Inc.,
279 and any other person or institution that the commissioner believes

280 would aid in the dissemination and distribution of such form. The
281 commissioner shall also cause information concerning such form and
282 the completion of such form to be disseminated in a manner best
283 calculated, in the commissioner's judgment, to reach members of the
284 public, attorneys and real estate licensees.

285 (f) Any residential disclosure report prescribed in accordance with
286 the provisions of this section and sections 20-327c to 20-327e, inclusive,
287 shall take effect for new listings thirty days following posting of the
288 notice regarding such report on the Department of Consumer
289 Protection's Internet web site.

290 (g) In any transfer of residential real property by a political
291 subdivision of this state, such political subdivision shall disclose to the
292 prospective purchaser of such real property, at any time prior to the
293 prospective purchaser's execution of any binder, contract to purchase,
294 option or lease containing a purchase option, any facts that are within
295 such political subdivision's actual knowledge concerning:

296 (1) The presence of pyrrhotite in any concrete foundation on such
297 property;

298 (2) Any damage or deterioration in any concrete foundation on such
299 property, including, but not limited to, any damage or deterioration
300 caused by the presence of pyrrhotite in any foundation on such
301 property; and

302 (3) Any repairs or remediation to any concrete foundation on such
303 property.

304 Sec. 2. Section 20-327c of the general statutes is repealed and the
305 following is substituted in lieu thereof (*Effective January 1, 2020*):

306 (a) On or after January 1, 1996, every agreement to purchase
307 residential real estate, for which a written residential condition report
308 is required pursuant to section 20-327b, as amended by this act, shall
309 include a requirement that the seller credit the purchaser with the sum

310 of five hundred dollars at closing should the seller fail to furnish the
 311 written residential condition report as required by sections 20-327b to
 312 20-327e, inclusive, as amended by this act.

313 (b) (1) No seller who credits a purchaser pursuant to subsection (a)
 314 of this section shall, by reason of such credit, be excused from
 315 disclosing to the purchaser any defect in the residential real estate if
 316 such defect:

317 (A) Is subject to disclosure pursuant to section 20-327b, as amended
 318 by this act;

319 (B) Is within the seller's actual knowledge of such residential real
 320 estate; and

321 (C) Significantly impairs (i) the value of such residential real estate,
 322 (ii) the health or safety of future occupants of such residential real
 323 estate, or (iii) the useful life of such residential real estate.

324 (2) A purchaser may, without limiting any other remedies available
 325 to the purchaser, bring a civil action in the judicial district in which the
 326 residential real estate is located to recover actual damages from a seller
 327 who fails to disclose any defect described in subdivision (1) of this
 328 subsection to such purchaser."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	20-327b
Sec. 2	January 1, 2020	20-327c

Section 1	October 1, 2019	20-327b
Sec. 2	January 1, 2020	20-327c